

# EXHIBIT D

IN THE UNITED STATES DISTRICT COURT  
FOR THE DIVISION OF MONTANA  
MISSOULA DIVISION

Cause No. CV-13-121-M-DWM

TAMARA DOWNEN, Individually and as Personal  
Representative for the ESTATE OF STANLEY L. DOWNEN,  
deceased,

Plaintiff,

vs.

MONTANA VETERANS' HOME; STATE OF MONTANA DEPARTMENT OF  
PUBLIC HEALTH SERVICES; CITY OF COLUMBIA FALLS;  
MIKE JOHNSON; and DAVID G. PERRY,

Defendants.

DEPOSITION OF VICKY BRIGGS  
November 26, 2013

Pursuant to Notice and the Federal Rules of  
Civil Procedure, this deposition, called by Plaintiff, was  
taken at 145 Commons Loop, Suite 200, Kalispell, Montana,  
at 10:54 a.m., before Sheri J. Hazlett, Registered  
Professional Reporter and Notary Public of the State of  
Montana.

1 Q And that was the first time you saw him?

2 A Yes.

3 Q What was he doing?

4 A He was at the first door that goes into a foyer  
5 and going to the outside Door 2.

6 Q The first door is kind of covered up by the  
7 green line there; is that right?

8 A Yeah.

9 Q Who was walking with Mr. Downen?

10 A Another CNA.

11 Q Do you know that CNA's name?

12 A He doesn't work there anymore.

13 Q I think there a Sam and a Leo.

14 A Leo would be the one that would be with him at  
15 that time.

16 Q Then what happened?

17 A As I'm going down the hall, Leo was, like I  
18 said, at the -- I guess it would be the green line there,  
19 and he let me know that this resident was getting out and  
20 he would probably need some help with him, because he was  
21 very agitated. I said okay.

22 Q Let me stop you there. When did Leo tell you  
23 that the resident was getting out, was that before they  
24 went through those first doors?

25 A Well, the first door was already open. They

1 were like standing there with the door open, he was  
2 leaving, the resident.

3 Q And are those doors just held open then?

4 A No. You have to open them.

5 Q Who was holding the door open?

6 A Leo at the time, because the resident had  
7 already gone through that door heading for the outside  
8 door, which is No. 2.

9 Q Then what happened?

10 A Well, I said, Leo, well, we'll see if we can  
11 direct him back in. And the resident was very fast, out  
12 Door 2. By the time we had got -- well, I had caught up  
13 with him, he had picked up two rocks.

14 Q Okay.

15 A And he was very agitated, and he said he was  
16 going home.

17 Q Let me see if I can straighten this out a little  
18 bit. So Leo was holding open these doors here that are  
19 covered by up the green line, is that right, when he first  
20 talked to you?

21 A Yes, he was there. The resident had already  
22 gotten out that door and was headed for Door 2.

23 Q And you were approximately at the junction of  
24 Hall 3 and Hall 1; is that right?

25 A Yes.

1 not listening.

2 Q Okay. What other things did you do to redirect  
3 him at that point in time?

4 A To redirect. Well, like I say, he wasn't  
5 listening. I -- there was nothing else we could really  
6 do. He was very agitated. We walked with him just to  
7 make sure he was being safe. We were about 8, 10 feet  
8 behind him.

9 Q Did either you or the other CNA let anyone else  
10 know that he had left the building?

11 A I had asked Leo to go back in, let the nurse  
12 know.

13 Q Did he do that?

14 A Yes, he did.

15 Q How long was Leo gone before he came back?

16 A Maybe minutes.

17 Q Did anyone else come out with him?

18 A Another CNA. That would be Sam.

19 Q All right. So it was you, Sam, and Leo that  
20 were following Mr. Downen to start with?

21 A Correct.

22 Q When did Rose catch up with you?

23 (Mr. Di Lorenzo entered the room.)

24 A I'm going to say approximately maybe within five  
25 minutes.

1 Q (BY MR. McFARLAND) Okay. Do you know where you  
2 were when Rose caught up with you guys?

3 A We were walking down the lane with the resident.

4 Q You said that Mr. Downen picked up two rocks; is  
5 that right?

6 A Correct.

7 Q What did those rocks look like, I mean sizewise,  
8 if you can estimate?

9 A Probably -- they were in his palm. They were  
10 big enough to hold in his palm, but not much bigger than  
11 that.

12 Q Outside of Door No. 2, what sort of rocks are  
13 out there? Is it like a landscaping rock? Where would he  
14 grab these rocks?

15 A There was some landscaping with rocks at that  
16 time. It's changed now. But it was, I believe, one on  
17 this side and this side (indicating) of the door.

18 Q When you say on each side of the door, one rock  
19 or one landscaping area?

20 A Landscaping of rocks.

21 Q How has that changed now?

22 A They have trees out there, and if I can  
23 remember, I think cement and some benches out there now.  
24 They remodeled.

25 Q It's my understanding from an earlier discussion

1           Q     And is that a fairly accurate representation of  
2     the facility and Veterans Drive?

3           A     Yes.

4           Q     What was Mr. Downen doing when he was walking  
5     down Veterans Drive? Was he yelling at people? Was he  
6     saying anything to you? What was going on?

7           A     I was 8 to 10 feet behind him, so if he was, I  
8     did not hear him yelling.

9           Q     Okay. Did he ever threaten you with rocks at  
10    all?

11          A     Me personally, no.

12          Q     Anyone in your group of CNAs?

13          A     I do believe that Nurse Rose had gone up and  
14    tried to redirect him, and he did lift up his arm with a  
15    rock in it.

16          Q     How close was she when she tried to redirect  
17    him?

18          A     Couple feet.

19          Q     Did he throw the rock at her or swing it at her  
20    or anything?

21          A     He raised his hand with the rock in there in a  
22    threatening pose, yes.

23          Q     What happened after that?

24          A     What happened after that I think she went off on  
25    the side, and we just all kept proceeding to follow him